

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND DEPARTMENT

In re Cardona

75 A.D.3d 54 (N.Y. App. Div. 2d Dep't 2010) · Decided May 18, 2010

SUMMARY

The court accepted Cesar G. Cardona’s voluntary resignation from the New York bar after he acknowledged allegations that he converted fiduciary funds and failed to maintain required bookkeeping records. The resignation was effective immediately, resulting in his disbarment and removal from the roll of attorneys, and the related disciplinary proceeding was discontinued.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Per Curiam; Prudenti, P.J.; Mastro, J.; Rivera, J.; Skelos, J.; Dillon, J.
JURISDICTION	New York
DECIDED	May 18, 2010
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the respondent submitted a resignation while disciplinary charges were pending, and the Grievance Committee recommended acceptance.
PRECEDENTIAL VALUE	published

TOPICS

civil procedure

PRACTICE AREAS

attorney discipline professional responsibility

QUESTIONS PRESENTED

1. Whether the respondent's resignation from the practice of law complied with the requirements of 22 NYCRR 691.9 and should be accepted.
2. Whether acceptance of the resignation required immediate disbarment and striking the respondent's name from the roll of attorneys.

3. Whether the pending disciplinary proceeding should be discontinued in light of the accepted resignation.

HOLDINGS

1. A resignation from the practice of law should be accepted when it complies with the requirements of 22 NYCRR 691.9; the respondent's resignation satisfied those requirements.
2. Upon acceptance of the respondent's resignation, the court immediately disbarred him and struck his name from the roll of attorneys and counselors-at-law.
3. The pending disciplinary proceeding was discontinued in light of the respondent's accepted resignation.

KEY QUOTATIONS

“Inasmuch as the proffered resignation complies with the requirements of 22 NYCRR 691.9, it is accepted, and, effective immediately, the respondent is disbarred and his name is stricken from the roll of attorneys and counselors-at-law.” (56)

“The disciplinary proceeding authorized by order of this Court dated September 30, 2009 is discontinued in light of the respondent’s resignation.” (56)

FACTUAL BACKGROUND

The respondent acknowledged that his resignation was free and voluntary, that he understood the consequences of resignation, and that he could not successfully defend against pending disciplinary charges. The charges alleged that he converted funds entrusted to him as a fiduciary in connection with his law practice and failed to maintain required bookkeeping records. He also consented to the court's continuing jurisdiction to order restitution and reimbursement to the Lawyers' Fund for Client Protection and waived the opportunity to oppose such an order.

PROCEDURAL HISTORY

The Grievance Committee served the respondent with a petition alleging three charges of professional misconduct, including conversion of fiduciary funds and failure to maintain required bookkeeping records. After acknowledging that he could not successfully defend against the charges, the respondent submitted a resignation subject to possible restitution and reimbursement proceedings. The Appellate Division accepted the resignation, immediately disbarred the respondent, struck his name from the roll of attorneys, and discontinued the disciplinary proceeding.

DISPOSITION

other